**HON'BLE SRI JUSTICE P.S. NARAYANA**

**W.P.No.11619 of 2006**

**Dated 18th JULY 2006**

Between:

J. Madhusudhan Rao S/o J Chinna Ramamurthy
Aged about 34 years, Advocate
R/o Venkampeta village, Parvatipuram Mandal
Vizianagaram District

… Petitioner

And:

The Chairperson, Parvatipuram Municipality,
Parvatipuram, Vizianagaram district & another

… Respondents

**HON'BLE SRI JUSTICE P.S. NARAYANA**

**W.P.No.11619 of 2006**

**ORDER:**

This writ petition is filed for writ of Mandamus or any other writ or order or direction declaring the auction of the respondents as illegal, arbitrary and violation of natural justice and violation of Rules of A.P. Municipalities Act 1965 and suspend the item No.15 of the Agenda dated 27.5.2006 passed by the 1st respondent and consequently direct the respondents to consider his application for appointment of Standing counsel of Parvatipuram Municipality, Parvatipuram, Vizianagaram District and pass such other suitable orders.

2. It is stated that the petitioner is practicing as an Advocate at Parvatipuram since last 13 years and he was appointed as Standing Counsel of Parvatipuram Municipality on 25.05.2000 through Roc No.884/2000 and subsequently, his term was extended on 22.5.2003 for a further period of three years i.e. up to 21.5.2006 and he had been discharging his duties as Standing Counsel without any remarks. It is further stated that while he was discharging his duties as a Standing Counsel of Parvathipuram Municipality, without any reasonable cause and without giving any notice and by violating the Clause 12 of the agreement for appointment of Standing counsel, the Chairperson passed a resolution on 31.12.2005 cancelling his appointment and called for fresh applications for appointment of Standing Counsel. Aggrieved by the auction of the 1st respondent, the petitioner filed writ

petition under Article 226 vide W.P.No.1897 of 2006 and this Court while dismissing the said writ petition on 27.3.2006 made an observation –

> *"therefore I am of the opinion that the writ petition is filed only on the ground of apprehension, but however it is always open to the respondents to terminate the agreement if any entered with the petitioner by giving one month notice. If no such agreement was enter with the petitioner, he has no right to continue as a Standing counsel"*.

It is further stated that after dismissal of the writ petition, the petitioner is continued as Standing counsel of Parvatipuram Municipality for his full term and now the respondents called for applications/Bio-datas of Advocates from the Bar Association, Parvatipuram Court to appoint Standing Counsel for the Parvatipuram Municipality for a period of three years, vide his letter No.84/200-A1 dated 27.01.2006 and in response to the said letters, the Bar Association, Parvatipuram sent the Bio-datas of 13 candidates. It is further stated that the petitioner has sent his application/bio-data directly to the respondents for consideration for the post of Standing Counsel, since there is no bar to be appointed as a Standing Counsel for third term. Several other allegations were made in paras 6,7 and 8 of the affidavit filed in support of the writ petition.

3. The learned Standing Counsel had brought to the notice of this Court the Rules relating to Appointment of Standing Counsel Payment of Fees and Travelling Allowance and Procedure for filing of Appeal in Civil Cases Rules, 1968 and G.O.Ms.No.706 Municipal Administration dated 3.8.1968 which were made in exercise of the powers conferred under Sub-Section (1) of Section 326 of the A.P. Municipality Act 1965. Rule 2 (3) of the said Rules specifies that when a Standing counsel is to be appointed the Commissioner of the Municipal Council shall invite applications from the members of the local Bar of Court not less than seven years standing by sending a

notice in this behalf of the President of the local Bar Association and the Council shall stand appoints its standing counsel from among the applicants. In the absence of qualified and suitable candidates for such appointment, the Municipal Council may like in manner invite the applications for second time and appoint its Standing Counsel. The explanation says that the expression of local Bar shall in respect of any Municipality, which is not a seat of a civil Court means the power at the place which is a seat of the Civil Court having jurisdiction over the municipal town concerned. The learned Standing Counsel would submit that even as per the affidavit filed in support of the writ petition, the petitioner himself admitted that directly the application was sent not through the Bar Association and hence, the same is contravention of Rule 2 (3) of the Rules referred to supra.

4. In the light of the same, the other questions need not be considered. Accordingly, the writ petition is dismissed at the admission stage itself. No order as to costs.

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**P.S. NARAYANA, J**

Dated 18th JULY 2006

BSS